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EPA--REGION 10

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

In the Matter of: )  
KETCHIKAN PULP COMPANY, ) [TSCA] Docket No. 1094-04-07-2615  
Respondent ) CONSENT AGREEMENT AND CONSENT  
ORDER

I. PRELIMINARY STATEMENT

1. The United States Environmental Protection Agency ("EPA") initiated this proceeding for the assessment of a civil penalty pursuant to Section 16(a) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2615(a), by issuing a complaint against Respondent, Ketchikan Pulp Company, on July 18, 1994.

2. The complaint charged Respondent with five violations of the Polychlorinated Biphenyls ("PCBs") regulations, 40 C.F.R. Part 761, and TSCA Section 15, 15 U.S.C. § 2614.

3. As a result of information exchanged during settlement negotiations, EPA and Respondent have agreed to resolve this matter by executing this Consent Agreement and Consent Order ("CACO").

II. CONSENT AGREEMENT

4. Respondent admits the jurisdictional allegations contained in the complaint.



1           5.   Respondent neither admits nor denies the factual  
2 allegations, findings, or conclusions of law contained in the  
3 complaint.

4           6.   Counts One, Two, Three and Four were dismissed on  
5 Respondent's motion by an order dated July 25, 1996. On EPA's  
6 motion, by the same order Respondent was found liable on  
7 Count Five.

8           7.   After EPA notified Respondent of the violations  
9 addressed in this case, Respondent incurred at least \$17,982 in  
10 costs to perform a Supplemental Environmental Project ("SEP").  
11 The SEP consisted of early disposal of electrical equipment  
12 containing PCBs. The expenditures consist of \$8,103 capacitor  
13 disposal costs, \$3,801 outside labor to remove the capacitors,  
14 and \$6,078 to remove a transformer.

15          8.   The parties agree that this SEP results in  
16 significant environmental or public health protection and  
17 improvements.

18          9.   Based upon Respondent's prompt action to come into  
19 compliance, Respondent's willingness to settle this matter  
20 without further litigation, the nature of the violations,  
21 Respondent's performance of the SEP, and other relevant factors,  
22 and in accordance with the PCB Penalty Policy, EPA has determined  
23 that \$3,200 is an appropriate civil penalty to settle this  
24 action.

25          10. Respondent and EPA agree to the assessment of a  
26 civil penalty in the amount of \$3,200.



1 11. Respondent agrees not to claim or attempt to claim  
2 a federal income tax deduction or credit covering all or any part  
3 of the civil penalty paid to the United States Treasurer.

4 12. Respondent waives its right to request an  
5 adjudicatory hearing on any issue addressed in this CACO.

6 13. Respondent represents that it is duly authorized  
7 to execute this CACO and that the party signing this CACO on its  
8 behalf is duly authorized to bind Respondent to the terms of this  
9 CACO.

10 14. Respondent and EPA agree to the issuance of the  
11 Consent Order below.

12 III. CONSENT ORDER

13 IT IS HEREBY ORDERED and ADJUDGED as follows:

14 15. For the reasons set forth above, Respondent is  
15 hereby assessed a penalty in the amount of \$3,200.

16 16. Respondent shall pay the assessed penalty in full  
17 no later than 30 days from the date a conformed copy of this CACO  
18 is mailed to Respondent by mailing a certified check or money  
19 order, payable to the United States Treasurer, to:

20 U.S. Environmental Protection Agency  
21 (Region 10 Hearing Clerk)  
22 P.O. Box 360903M  
Pittsburgh, Pennsylvania 15251

23 A transmittal letter, indicating Respondent's name, complete  
24 address, and this case docket number must accompany the payment.  
25 A copy of the check and of the transmittal letter shall be  
26 delivered or mailed to the Regional Hearing Clerk at the  
27 following address:  
28





U.S. Environmental Protection Agency  
Region 10 Hearing Clerk  
1200 Sixth Avenue, ORC-158  
Seattle, Washington 98101

17. Respondent's failure to comply with this CACO shall render the entire unpaid portion of the assessed penalty immediately due and payable, together with all accrued interest. Such failure may also subject Respondent to a civil action pursuant to TSCA Section 16(a)(4), 15 U.S.C. § 2615(a)(4), to collect any unpaid portion of the assessed penalty, together with interest, handling charges and nonpayment penalties as set forth below. In any such collection action, the validity, amount, and appropriateness of the penalty is not subject to review.

18. Pursuant to 31 U.S.C. § 3717, Respondent shall pay the following amounts:

a. Interest. Any unpaid portion of the assessed penalty shall bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1) from the date a conformed copy of this CACO is mailed to Respondent; provided, however, that no interest shall be payable on any portion of the assessed penalty that is paid within 30 days of the date a copy of this CACO is mailed to Respondent.

b. Handling Charge. Pursuant to 31 U.S.C. § 3717(e)(1), a monthly handling charge of \$15 shall be paid if any portion of the assessed penalty is more than 30 days past due.

c. Nonpayment Penalty. Pursuant to 31 U.S.C. § 3717(e)(2), a nonpayment penalty of 6% per annum shall be





1 paid on any portion of the assessed penalty that is more  
2 than 90 days past due, which nonpayment penalty shall be  
3 calculated as of the day the underlying penalty first  
4 becomes past due.

5 19. Each party shall bear its own costs, fees, and  
6 disbursements in this action.

7 20. This document is a "consent order" as that term is  
8 used in the Penalty Policy for the purposes of demonstrating a  
9 "history of prior such violations" as provided in Section 16 of  
10 TSCA, 15 U.S.C. § 2615.

11 DATED this 16<sup>th</sup> day of December, 1996.

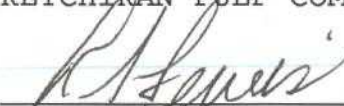
12 

13 CHUCK CLARKE  
14 Regional Administrator

15 Stipulated, Agreed, and  
16 Approved for Entry,  
17 Waiving Notice:

18 KETCHIKAN PULP COMPANY

19 Dated: 12/16/96

20   
(signature)

21 President  
(name and title)

22 U.S. ENVIRONMENTAL PROTECTION  
23 AGENCY

24 Dated: 12/16/96

25   
KEITH E. COHON

26 Assistant Regional Counsel  
27  
28



1 CERTIFICATE OF SERVICE

2 I hereby certify that the foregoing CONSENT AGREEMENT AND  
3 CONSENT ORDER, dated September \_\_, 1996, was served as follows:

December 16,

4 Original by Hand:

5 Mary Shillcutt, Regional Hearing Clerk  
6 U.S. Environmental Protection Agency, Region 10  
7 1200 Sixth Avenue  
Seattle, Washington 98101

8 Copy by Pouch Mail:

9 Hon. Charles E. Bullock  
10 U.S. EPA, Mail Code 1900  
11 401 M Street, S.W.  
Washington, D.C. 20460

12 Copy by first class mail:

13 Bert P. Krages II, Esq.  
14 900 S.W. Fifth Avenue  
Suite 1900  
15 Portland, Oregon 97204

16  
17 Dated: December 16, 1996

  
18 Greg Sippy  
U.S. EPA Region 10

